

A Guide to Sales Tax on Meals

2008



Definitions



Common Questions



Taxable and Tax-Exempt Items



Filing and Payment Information



Department of Revenue Resources



Massachusetts Department of Revenue

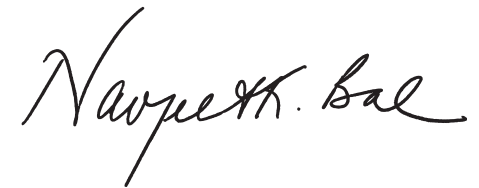
Dear Taxpayer:

Voluntary compliance is the cornerstone of our tax system, and getting taxpayers the information they need is one of the most important ways DOR helps taxpayers fulfill their obligations.

The purpose of this guide is to provide answers to the most frequently asked questions about the Massachusetts sales tax on meals, which is one of several “trustee taxes” administered by DOR. Trustee taxes — including meals, sales and use, withholding and room occupancy — are so-named because employees and customers are entrusting businesses to collect these taxes and to pay them over to the Commonwealth. In addition to explaining under what circumstances the sales tax on meals must be remitted to the state, this guide includes detailed information on taxable and nontaxable items, filing and payment requirements, and resources for getting tax help.

We hope you find this guide helpful and encourage you to contact our Customer Service Bureau at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089, if you need further assistance.

Sincerely,

A handwritten signature in black ink that reads "Navjeet K. Bal". The signature is fluid and cursive, with the first name being the most prominent.

*Navjeet K. Bal
Commissioner of Revenue*

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This guide contains general information about the Massachusetts sales tax on meals. It describes the tax, what types of transactions are taxable and what a vendor must do to comply with the law.

A Guide to Sales Tax on Meals is designed to lead you through the basics of the sales tax on meals by explaining how to register as a vendor with the Massachusetts Department of Revenue (DOR), as well as how to collect and remit this tax to the Commonwealth. The guide also contains examples of situations in which meals are tax-exempt.

This guide is part of an ongoing series of publications that DOR has produced to keep the public informed about Massachusetts tax law. If you have further questions about the sales tax on meals, please call the Department's Customer Service Bureau at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089.

*The Department is pleased to offer businesses access to a number of useful resources via its website at **www.mass.gov/dor**. The website contains information on various tax and employer obligations, and features online vendor registration, electronic filing and payment options, and new hire reporting programs.*



*A meal includes food sold
on a "take out" basis*

As you read through this guide, you will see phrases such as "meals tax," "meals tax vendor," "meals tax return" and "meals tax liability." Please keep in mind that we have used these terms to make this guide easier to read and that the tax is actually a "sales tax" on meals, not a separate "meals tax."

Meal: A meal is any food and/or beverage that has been prepared for immediate human consumption and provided by a restaurant or restaurant part of a store. A meal includes food or beverages sold on a "take out" or "to go" basis, whether or not they are packaged or wrapped, and whether or not they are taken from the premises of the restaurant.

Restaurant: A restaurant is any eating or drinking establishment — whether stationary or mobile, temporary or permanent — that is primarily engaged in the business of selling meals for which a charge is made. Such establishments include but are not limited to:

- Cafes
- Cafeterias
- Canteen trucks or wagons
- Catering businesses (See Directive 06-3, Catering Businesses, available on the DOR website at www.mass.gov/dor.)
- Cocktail lounges and bars
- Coffee shops
- Diners
- Dining rooms, including hotel and motel dining rooms
- Ice cream or other food product stands
- Lunch counters
- Private or social clubs
- Salad bars
- Snack bars, including theatre snack bars



*Some food sold in stores
is taxable*

- Street wagons or carts
- Taverns
- Vending machines or "honor snack trays" that sell snacks or candy with a sales price of \$3.50 or more. Honor snack trays consist of any vending arrangements in which snacks or candy are available in an open tray for employees in an establishment that normally does not sell food and for which payment is made on the honor system.

Store: A store is any establishment that is not primarily engaged in the business of selling meals. In general, food products for human consumption sold by stores are exempt from the sales tax.

Restaurant part: A restaurant part is an area, section or counter, etc., within a store from which meals are sold. Any store that contains a restaurant part must charge a sales tax on those meals.

Examples of stores that may have a restaurant part include supermarkets, grocery stores, bakeries, delicatessens, convenience stores and markets.

Restaurant meal delivery company: A restaurant meal delivery company is a vendor of meals purchased from restaurants for resale and delivery.

What is the Massachusetts sales tax on meals?



See Regulation 830
CMR 64H.6.5
Sales Tax on Meals

The Commonwealth of Massachusetts imposes a sales tax on meals sold by or purchased from restaurants or any part of a store considered by Massachusetts law to be a restaurant. The tax is 5 percent of the sales price of the meal. Generally, a food product commonly thought of as a grocery item is exempt from the sales tax on meals, except if sold as a meal item from a restaurant part of a store. More detailed information regarding the sales tax on meals is contained in Regulation 830 CMR 64H.6.5, Sales Tax on Meals.

Who is a meals tax vendor?

Anyone who sells meals that are subject to sales tax in Massachusetts is a meals tax vendor. If a liquor license holder operates a restaurant where meals are served, the holder of the license is presumed to be the meals tax vendor, whether the meals are served by the license holder or a concessionaire.

What are the responsibilities of a meals tax vendor?

Massachusetts meals tax vendors are responsible for:

- Registering with the Massachusetts Department of Revenue (DOR) to collect the sales tax on meals;
- Collecting a 5 percent sales tax on all taxable sales of meals;
- Paying the full amount of tax due with the appropriate Massachusetts meals tax return on time; and
- Keeping complete, detailed and accurate records of gross receipts from all sales, whether taxable or not. More detailed information on the records that are required and how long to keep them can be found on pages 22 and 23 of this booklet.

Are the responsibilities of out-of-state vendors the same as those of in-state vendors?

Yes. Out-of-state vendors who sell meals in Massachusetts generally have the same responsibilities as Massachusetts vendors.

How does a vendor register to collect the sales tax on meals?

Vendors must register to collect the Massachusetts sales tax on meals online through DOR's **WebFile for Business** application, which is available on the DOR website at www.mass.gov/dor.

How do meals tax vendors show that they are registered properly to collect the sales tax on meals?

After registering with the Department, vendors will be issued a Meals and All Beverages Sales Tax Registration Certificate (Form MT-1) for each business location. This certificate must be displayed in a prominent location on the business premises so that it is easily visible to customers.

How does a vendor collect and remit the sales tax on meals?

Vendors must add a 5 percent sales tax to the selling price of every taxable transaction and collect it from the purchaser. The tax must be separately stated and separately charged on all invoices, bills, displays or contracts except on those solely for alcoholic beverages. You must complete and remit the appropriate sales tax return(s) to the Department, with payment in full, on or before the due date. More detailed information on filing and payment requirements can be found in the section of this guide entitled "Filing and Payment Information," which is on page 20.

How do meals tax vendors report taxable transactions of alcoholic and non-alcoholic beverages?

Beginning January 1, 2007, meals tax vendors must report gross receipts from the sale of alcoholic beverages and non-alcoholic beer separately from food and other beverage sales on the appropriate lines of their meals tax return (Line 1b for alcoholic beverages and non-alcoholic beer; Line 1a for all meals and other beverages).

What restaurant sales are taxable?

Generally, the meals tax is imposed on the sale by a restaurant, or any part of a store that is considered to be a restaurant, of any food or beverage (including alcohol) that is prepared for human consumption in such a manner that it does not need any significant additional preparation or cooking to make it edible.

Example: If a restaurant serves a patron a lasagna dinner, then the dinner is taxable.

However, if the restaurant also sells frozen lasagna dinners that patrons heat in their own homes, these dinners are not considered meals and therefore are not taxable because they require additional preparation.

Example: If a patron purchases a pizza and two cans of soda from a restaurant, then both the pizza and sodas are taxable.

However, if the patron purchases a pizza and a two-liter bottle of soda to go, then the pizza is taxable, but the bottle of soda is tax-exempt since it was sold in an unopened original container of at least 26 fluid ounces. (See "Tax-Exempt Items" on page 16 for more information.)

Example: If a restaurant offers a patron, upon presentation of a coupon, two meals for the usual price of one, the price of the free meal is excluded from the meals tax. The tax is due only on the actual amount the restaurant charges the patron. Please see Regulation 830 CMR 64H.1.4, Discounts, Coupons and Rebates, for more information.

What other kinds of establishments must charge a meals tax?

Any store not ordinarily considered a restaurant also must charge a sales tax on certain food items if those items are sold in such a manner as to constitute a meal. A meal includes food or beverages that do not require further significant preparation, whether or not they are packaged or wrapped and whether or not they are taken from the premises where purchased. (A more detailed list of the types of food items subject to the sales tax on meals appears on pages 13 and 14.) The following types of stores must charge a sales tax on the taxable meals they provide. For more information on a store not specifically mentioned, please call DOR's Customer Service Bureau at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089.



Customer Service
Bureau
617-887-MDOR or
800-392-6089

Bakeries: When a bakery sells food items commonly sold at snack bars, coffee shops or luncheon counters — such as taxable beverages or sandwiches — the entire bakery is considered a restaurant, and its sales of baked goods are taxable except when sold in units of six or more for off-premises consumption. If, however, the bakery in some way segregates the restaurant part of the store from the rest of the store, the bakery part remains a store, and its sales generally are not taxable. In that situation, only the restaurant part is considered a restaurant for tax purposes. A separate restaurant part cannot be established if taxable beverages or other meals must or may be purchased from the area, section or counter from which baked goods are sold. Some separation of space and function is necessary.

Delicatessens: A delicatessen generally is considered a store with a restaurant part. Prepared foods including meat, poultry or fish items — for example, fried chicken or barbecued spare ribs — are taxable if sold heated. Sandwich meats or cheeses (sliced or whole) and whole cooked meat, poultry or fish sold unheated are not taxable.

Grocery stores, markets, supermarkets: Sales from a bakery, delicatessen or restaurant part of a grocery store, market or supermarket are taxed as previously described; sales of food products (groceries) are not taxable. However, a supermarket salad bar where shoppers purchase salads and pay by weight is a restaurant for purposes of the meals tax. Therefore, the salad is subject to tax.

Generally, the sale of prepared meat, poultry or fish items — including meat, poultry or fish parts or pieces, such as fried chicken wings or barbecued spare ribs — heated or in a combination plate is taxable.

Convenience stores: A convenience store's sales of the following items are taxable: poured or fountain-type beverages; combination plates sold as a unit reasonably and commonly considered a meal, whether or not heated; single-portion entrees such as lasagna, eggplant parmesan or quiche, heated, or refrigerated if the store provides a heating unit, and whether or not prepackaged; heated prepared foods; quick meals, such as hot dogs, hamburgers, pizza or soup, heated, or refrigerated if the



Many prepared foods
sold in a grocery store
are taxable

store provides a heating unit, and whether or not prepackaged; sandwiches, whether or not prepackaged or heated; and unpackaged snacks such as fresh-popped popcorn.

Video stores: A video store's sales for off-premises consumption of poured or fountain-type beverages or of unpackaged snacks, such as fresh-popped popcorn, are taxable. Prepackaged snacks sold at a video store are not taxable.

Honor snack trays and vending machines: Honor snack trays and vending machines that sell food generally are considered restaurants for purposes of the meals tax. An exception is made, however, when the honor tray or vending machine is used to sell only snacks (food or beverage) or candy with a sales price of less than \$3.50. If the sales price of any single item sold through an honor tray or vending machine is \$3.50 or more, all sales are then taxable.

Restaurant meal delivery companies: A restaurant meal delivery company is a vendor of meals purchased from restaurants for resale and delivery. The restaurant meal delivery company is required to provide a Sales Tax Resale Certificate (Form ST-4), to all restaurants on all purchases of meals that it resells and delivers to its customers. In addition, the restaurant meal delivery company is required to register with the Department of Revenue, collect the 5 percent sales tax on the sales price paid by the retail customer for the meals (excluding separately stated delivery charges and tips) and remit the tax to the Commissioner of Revenue.

A restaurant that sells meals to a restaurant meal delivery company is required to accept a Massachusetts Sales Tax Resale Certificate (Form ST-4), from that restaurant meal delivery company. Once the form is accepted, the restaurant is not required to collect and remit the sales tax on meals to the Commonwealth.

For more information, please see DOR Directive 04-6, Sales Tax Treatment of Restaurant Meals that are Resold by Restaurant Meal Delivery Companies, which is available on the DOR website at www.mass.gov/dor, or by calling DOR's Rulings and Regulations Bureau at 617-626-3250.

What store sales are subject to the sales tax on meals?

Sales of food and beverages by the stores previously listed are subject to the meals tax if the items are sold in a manner that constitutes a meal. The following items sold in stores are taxable.

Beverages: Poured beverages, such as a cup of coffee or a fountain soda.

Unpackaged baked goods: Unpackaged baked goods or other snacks sold by a store are taxable unless they are sold in units of six or more for off-premises consumption. Please note however that a bakery may sell any amount of unpackaged baked goods tax-free if it sells only baked goods, or if it keeps its restaurant sales separate as required by DOR regulation. Please see Regulation 830 CMR 64H.6.5, Sales Tax on Meals, for more information.

Hot foods: Any heated prepared food item.

Entrees: Single-portion-size entrees — such as lasagna, eggplant parmesan or quiche — prepared for immediate consumption, if heated. Refrigerated items are also taxable if the store provides heating units (typically microwave ovens) in which customers may heat the entrees. Such entrees are taxable, whether they are prepackaged or not. Entrees sold frozen are not taxable.

Combination plates: Prepared foods sold as a unit in a manner reasonably and commonly considered a meal, heated or not. Foods that are otherwise not taxable do not become taxable simply because they are purchased together. The sale of a half-pint of potato salad and a half-pint of tuna salad for off-premises consumption is not taxable unless the items are presented or served as a unit in a manner that is reasonably and commonly considered a meal, such as sold as a plate or packaged as a dinner for a single price.

Quick meals: Quick meals prepared for immediate consumption such as hot dogs, hamburgers, pizza slices or soup, if heated. These items are also taxable when refrigerated if the store provides heating units (typically microwave ovens) in which customers may heat the quick meal. Quick meals sold frozen are not taxable. The sale of sandwiches is taxable whether prepackaged or heated.



See Regulation 830

CMR 64H.6.5

Sales Tax on Meals

Baked goods: Unpackaged baked goods generally are taxable unless sold in units of six or more for off-premises consumption. Baked goods in units of six or more includes any variety of items totaling six or more servings, for example: two bagels, three muffins and one danish; or a whole pie, cake, loaf of bread, etc.

What other types of items are included in the taxable sales price of a meal?

Generally, the sales tax imposed on a meal is based on the sales price of that meal. In certain circumstances, the sales price of a meal upon which the tax is imposed may include the tip, or related room rental or recreational admission charges. The following list outlines situations where these items are considered taxable.

Service charges included in the sales price of the meal: Generally, separately stated amounts designated as service charges added to the price of a meal are included in the sales price when such amounts are in fact part of the consideration for food and beverages. However, separately stated amounts designated as gratuities, service charges or tips are not included in the sales price of the meal if they are distributed by the vendor to the service employees, wait staff employees or service bartenders as provided in M.G.L. c. 149, §152A. If the service charges are paid only in part to the waiters or other service personnel, the charges are included in the sales price of the meal and subject to the sales tax.

Room rentals for serving meals: If a room is rented for the purpose of serving a meal, and a meal is provided by the operator of the room, the charge for the room is included in the price of the meal subject to the tax, whether separately stated or not. If a room is rented for purposes other than serving a meal, and light refreshments are provided, the sales tax only applies to the sales price of the refreshments if the charge is stated separately on both the records of the vendor and the bill to the customer. If the charges are not separately stated, the entire amount charged is subject to the sales tax.

Admission charges for entertainment or recreation: The sales tax is imposed on admission charges collected by a place of entertainment where food and/or alcoholic beverages are sold, unless all of the following requirements are met.

- A ticket is sold and collected as evidence of the admission charge;
- The patron is not required to purchase any food or beverages;
- The charge is for admission only and does not include any payment for food or beverages; and
- The admission charges are segregated from other receipts in the books and records of the place of entertainment.

Discounted meals: If a vendor offers customers, upon presentation of a coupon, a discount from the usual price of a meal, the sales price subject to tax is the actual amount the vendor charges the customer.

Are certain restaurant sales tax-exempt?

Yes. Certain food and beverages are not considered meals when sold by a restaurant for off-premises consumption, and their sales are not subject to the meals tax. These include:

- Food sold by weight, liquid or dry measure, count or in unopened original containers or packages, such as meat products sold by the pound, provided that such foods are commonly sold in the same manner in a retail food store that is not a restaurant;
- Beverages sold in unopened original containers when sold as a unit having a capacity of at least 26 fluid ounces;
- A loaf of bread;
- A quart of milk; and
- A prepackaged pint, quart, half gallon, etc. of ice cream, provided that such foods are commonly sold in the same manner in a retail food store that is not a restaurant. (Handpacked ice cream, regardless of size, is taxable.)

What store sales are tax-exempt?



Unopened beverages sold
by stores are tax-exempt

The following items sold in stores are not taxable.

Beverages: Beverages sold in unopened original containers for off-premises consumption, whether purchased separately or in combination with other foods.

Prepackaged snacks and prepackaged baked goods: Items such as popcorn, chips, candy, ice cream, prepackaged pastries, novelties, etc. for off-premises consumption. Prepackaged means packaged in a sealed, unopened original container intended and marked by the manufacturer for individual sale.

“Party packs” and “party platters”: An assortment of meats, poultry or cheeses sold by weight or count, cut and arranged on platter(s), sold with other foods and designed to serve a number of people. Nonfood items sold as part of a party pack or party platter, such as paper plates and plastic cutlery, are subject to the sales tax. If the vendor does not

separately state the charge for these items, and collect and pay over the tax, the vendor must pay the use tax on the cost to the vendor of the nonfood items.

Are sales of meals to certain purchasers/organizations tax-exempt?

Yes. Sales of meals to the following purchasers are not taxable.

Meals sold to 501(c)(3) organizations: Sales of meals to a religious, educational, charitable or scientific organization that is tax-exempt for federal purposes (exempt under Section 501(c)(3) of the Internal Revenue Code), or to persons, organizations or groups purchasing meals as agents on behalf of 501(c)(3) organizations, generally are exempt if the organization uses the meals in the conduct of its exempt enterprise. To obtain the exemption, the purchaser and its agent must provide the vendor with a properly completed copy of a Sales Tax Exempt Purchaser Certificate (Form ST-5) and a copy of the exempt organization's Certificate of Exemption (Form ST-2) issued by DOR. The vendor must ensure that these forms are complete and retain them to prove the sale was exempt. Otherwise, the sales tax on the meal can be assessed against the vendor.



Some purchasers are
exempt from paying
the meals tax

Example: A university holds meetings to plan alumni fund events. At these meetings the university provides meals, free of charge, to alumni who have agreed to solicit contributions to the fund for no compensation. As long as the vendors keep the required records (mentioned above), then the meals are exempt from the sales tax on meals.

Meals furnished to elderly or handicapped persons: Sales of meals to an organization of elderly or handicapped persons residing in certain subsidized housing are generally tax-exempt if the organization has obtained a Golden Age Meals Tax Exemption Certificate (Form MT-4) from DOR, and the vendor obtains a valid Golden Age Meals Tax Exempt Purchaser Notice (Form MT-5) along with a copy of Form MT-4 from the purchaser and keeps a record of the sale. For more information on what a vendor must do to establish an exempt sale of meals to elderly or handicapped persons, please see Regulation 830 CMR 64H.6.6, Meals Furnished to Organizations of Elderly Persons or Organizations of Elderly or Handicapped Persons Residing in a Qualifying Housing Project.

Meals sold directly to the U.S. or Massachusetts government:

Sales of meals directly to the U.S. or Massachusetts government, or persons, organizations or groups purchasing meals as agents on their behalf, are exempt. See Regulation 830 CMR 64H.6.5, Sales Tax on Meals, for substantiation requirements for vendors making sales directly to government organizations or to entities purchasing on behalf of government organizations.

Meals sold to restaurant meal delivery companies: *Sales of meals by a restaurant where the purchaser is a restaurant meal delivery company and intends to resell the meals in the regular course of business are exempt. Purchasers must be registered vendors of meals and must provide a Sales Tax Resale Certificate (Form ST-4) at the time of purchase. Restaurants that sell meals to restaurant meal delivery companies are required to retain Forms ST-4 for their records as proof such sales are exempt. Restaurant sellers may use the Department of Revenue's Sales Tax Resale Certificate Verification system to verify the purchaser's resale status via the DOR website with the understanding that they are still required to retain Forms ST-4.*

For more information on the resale of meals, see DOR Directive 04-6, Sales Tax Treatment of Restaurant Meals that are Resold by Restaurant Meal Delivery Companies, which is available on the DOR website at www.mass.gov/dor, or by calling DOR's Rulings and Regulations Bureau at 617-626-3250.

Are sales of meals by certain organizations tax-exempt?

Yes. Sales of meals by the following organizations are not taxable.

Sales of meals by health and day care facilities: *Sales of meals prepared by employees and served in a hospital, nursing home or licensed residential or day care facility.*

Hot lunch program for elderly persons: *Sales of government-funded meals served through qualifying school lunch programs to the elderly.*

Sales of meals by churches and synagogues: *Sales of meals prepared and served on the premises by members of a church or synagogue to its members and guests.*

Sales of meals by educational institutions or summer camps: *Sales of meals to students by educational institutions or their agents and/or sales of meals by summer camps for children or developmentally disabled individuals.*

Sales of meals by certain continuing care facilities: *Sales of meals to residents of certain continuing care facilities are tax-exempt. Continuing care facilities generally are residences that charge an up-front fee as full or partial consideration for room and board plus nursing or medical services. For more information, please see Technical Information Release 94-6, which is available on the DOR website at www.mass.gov/dor, or by calling DOR's Rulings and Regulations Bureau at 617-626-3250.*

What are the requirements for filing and paying sales tax on meals?

All vendors collecting and remitting sales tax on meals must file monthly returns. Returns are due 20 days after the end of the filing period and payment of the tax is due with the return.

Businesses with a combined annual withholding, sales/use tax (including sales tax on meals and telecommunications services) and room occupancy excise liabilities of \$10,000 or more are required to file returns and make payments electronically. Once the tax liability reaches the electronic filing threshold in one year, the business must file and pay electronically in all subsequent years, regardless of the amount due, as long as it has an obligation to file one of these three categories of taxes in Massachusetts. Also, all returns with zero tax due are required to be filed electronically, regardless of the amount of the business' total tax liability. All new businesses and existing businesses applying for an additional registration must file returns and make payments electronically, regardless of the amount of their annual tax liability.

How do I submit returns and payments electronically?

Trustee and business tax taxpayers may file returns and make payments electronically through DOR's secure Web-based application, **WebFile for Business**, which is available on the DOR website at www.mass.gov/dor.

Vendors and employers must register with DOR in order to use **WebFile for Business**. Instructions for registering to use the application are provided on the DOR website.

For more information on electronic filing, see TIR 04-30, Revised Electronic Filing Requirements, available on the DOR website at www.mass.gov/dor.

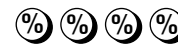
How can I assure timely filing?

An electronically filed return or report is deemed timely filed if electronically submitted on or before the due date, before midnight Eastern time, with all required information accurately entered. Upon submission, the filing entity will receive a confirmation number and time-and-date stamp, which constitute the substantiating date mark providing proof of time and filing date.

In order to be considered timely-filed, a paper return must be received by DOR on or before the due date, or if delivered after the due date, it must be postmarked by the U.S. Postal Service or date-stamped by a private delivery service at least two days prior to the due date.

What are the penalty and interest charges for late returns and payments?

Returns that are not filed on or before the due date are subject to penalty and interest charges.



Penalty for late payment
is 1 percent per month

The penalty for late payment is one percent of the unpaid tax shown on the return per month (or fraction thereof) up to a maximum of 25 percent. The penalty for failure to file a return by the due date is one percent of the balance due per month (or fraction thereof), up to a maximum of 25 percent.

If the tax is not paid when due, interest also will be charged at the federal short-term rate (which can change quarterly) plus four percentage points, compounded daily. If you wish to obtain information on these rates, please call DOR's Customer Service Bureau at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089.

Are there other penalties?

Yes. It is unlawful for a vendor to advertise or state to the public or any customer, directly or indirectly, that the sales tax on meals, or any part of it, will be assumed or absorbed by the vendor, or that it will not be added to the selling price, or that it will be refunded in whole or in part. This fine may be \$100 for each offense.

In addition, a vendor who underpays the sales tax on meals due to negligence or disregard of the tax laws, or who substantially understates a tax liability on a return, may be subject to a penalty of 20 percent of the underpayment if the underpayment exceeds the greater of 10 percent of the tax required to be shown on the return or \$1,000. See TIR 06-5, New Penalties under G.L. c. 62C, §§ 35A-35E, for more information.

Willful tax evasion is a felony punishable by a fine up to \$100,000 for individuals or \$500,000 for corporations and/or imprisonment of up to five years. Willful failure to collect and to pay over taxes is also a felony and is punishable by a fine up to \$10,000 and/or imprisonment for up to five years.

Taxpayers who do not comply with the requirements to file returns, make payments or submit data to DOR in an electronic format will be subject to a penalty of up to \$100 for each return, payment or data transfer submitted incorrectly to DOR. Please refer to TIR 04-12, Penalty for Failure to File, Report or Pay in the Prescribed Format, and TIR 04-30, Revised Electronic Filing Requirements, for more information.

Must a return be filed even if no tax was due for a given period?

Yes. A return must be filed for all periods, even when no tax is due — just enter zero in the appropriate places. Filing each period is necessary for DOR's record-keeping purposes. It also will help to avoid requests from DOR for filing information. Please note that all returns with zero tax due must be filed electronically. For more information, please see TIR 04-30, Revised Electronic Filing Requirements, available on the DOR website at www.mass.gov/dor.

How can sales tax on meals reporting errors be corrected?

An Application for Abatement/Amended Return (Form CA-6) must be filed in order to report any decrease in tax; report any increase in tax (full payment should be made with the filing of the amended return); dispute a tax assessment; or request a waiver of penalties due to reasonable cause.

WebFile for Business participants must use the “amend” feature of their WebFile for Business account to file abatement applications for withholding, sales and use tax (including sales tax on meals) and room occupancy taxes.

For additional information, please refer to DOR's online Guide to Taxes, available at www.mass.gov/dor. This guide is designed to help taxpayers understand how to request an abatement of tax paid to DOR, or to notify DOR of an additional tax due.

What records must a meals tax vendor keep?

A meals tax vendor must keep complete and accurate records of the gross receipts from all sales, whether they are taxable or not. Vendors also must retain copies of tax returns together with any supporting information necessary to verify the accuracy of the return. Sufficient records provide the vendor with evidence of each transaction and must include: cash register tapes showing each individual transaction; alcoholic beverages bar checks, if applicable; dining room meals checks; a separate daily receipts book or record for taxable and nontaxable sales; and copies of filed sales tax on meals returns. It is helpful if an establishment has a separate register, or one register with separate keys, for restaurant and nonrestaurant activities.

Dining room meals checks must be numbered serially and used in sequence for all meals service, with no number being repeated for a one-year period. Dining room meals checks must contain the name and address of the vendor and the wording: “5 Percent Mass. Sales Tax on Meals” with a space opposite this statement for insertion of the amount of the tax. All dining room meals checks must be tied securely and preserved in dated, daily bundles. The daily tax recordings must be entered in the vendor's records to substantiate the return for sales tax on meals.

Caterers must record all catering business transactions in a reservation ledger or book, stating all dates of jobs, names of purchasers, numbers of persons served, price totals and the proper amount of tax for all meals served. Caterers not using dining room meals checks must number bills or contracts serially and retain them with the reservation book or ledger.

How long should meals tax records be kept?

Records must be retained for a minimum of three years from the date the return was filed or the date it was required to be filed, whichever is later. A return may be audited for up to six years after being filed for understating by more than 25 percent the tax that should have been reported on the return. You also should know that there is no limitation on the period for which DOR may request records if a vendor failed to file a return or filed a false or fraudulent return. Further information about retaining records is available in Regulation 830 CMR 62C.25.1, Record Retention.



See Regulation 830
CMR 62C.25.1

What kind of help is available?

The information provided on the Department of Revenue's website, as well as the instructions in DOR's tax forms, should provide answers to most taxpayer questions. For further information on Massachusetts sales tax on meals, please contact:

Department of Revenue, Customer Service Bureau
PO Box 7010
Boston, MA 02204
617-887-MDOR or toll-free in Massachusetts 800-392-6089

DOR also issues a number of useful publications on various state tax issues. These publications include: tax-specific guides written in question and answer format such as **A Guide to the Department of Revenue: Your Taxpayer Bill of Rights**; and public written statements, such as Regulations, Technical Information Releases (TIRs), Directives and Letter Rulings, that explain the Commonwealth's tax laws in detail. DOR also offers Small Business Workshops designed to help all new or small businesses understand their filing requirements. Please call 617-887-5660 for more information.

Where to get forms and publications



Many Massachusetts tax forms and publications are available via the Department's website at www.mass.gov/dor.



To obtain Massachusetts forms and publications by phone, call the Department's main information lines at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089.

DOR offers a number of publications on various state tax issues. Most are available by visiting the DOR website at www.mass.gov/dor, or by calling DOR's main information lines at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089.

Form Number	Title
CA-6	Application for Abatement/Amended Return
MT-1	Meals and All Beverages Sales Tax Registration Certificate
ST-BDR-Meals	Claim for Bad Debt Reimbursement and Instructions
ST-MAB-4	Sales Tax on Meals, Prepared Food and All Beverages Return and Instructions
ST-12EC	Exempt Container Certificate and Instructions

Regulation Number	Title
830 CMR 62C.25.1	Record Retention
830 CMR 64H.1.4	Discounts, Coupons and Rebates
830 CMR 64H.6.5	Sales Tax on Meals
830 CMR 64H.6.6	Meals Furnished to Organizations of Elderly Persons or Organizations of Elderly or Handicapped Persons Residing in a Qualified Housing Project

MASSACHUSETTS SALES/USE TAX COLLECTION SCHEDULE

5% Sales Tax

Including Prepared Food and All Beverages

Publications

A Guide to the Department of Revenue: Your Taxpayer Bill of Rights

A Guide to Withholding of Taxes on Wages

Should You Be Paying Individual Estimated Taxes?

A Guide to Sales and Use Tax

A Guide to Sales Tax on Meals

A Guide to Estate Taxes (Applicable to dates of death prior to January 1, 1997)

A Guide to Estate Taxes (Applicable to dates of death on or after January 1, 1997 and prior to January 1, 2003)

A Guide to Estate Taxes (Applicable to dates of death on or after January 1, 2003)

DOR Regulations, Technical Information Releases, Directives and Letter Rulings are prepared on general tax issues as well as specific taxpayer inquiries and are available on the DOR website, or by calling DOR's Rulings and Regulations Bureau at 617-626-3250. Copies also are published in the **MASSTAX Guide**.

MASSTAX Guide contains five volumes covering all state taxes and DOR administrative procedures; it is available for purchase through Thomson West (800-328-9352) or for reference at many law libraries and at the State House Library.

Amount of Sale	Tax	Amount of Sale	Tax	Amount of Sale	Tax	Amount of Sale	Tax
\$.10 – \$.29	\$.01	\$8.10 – \$8.29	\$.41	\$16.10 – \$16.29	\$.81	\$24.10 – \$24.29	\$ 1.21
.30 – .49	.02	8.30 – 8.49	.42	16.30 – 16.49	.82	24.30 – 24.49	1.22
.50 – .69	.03	8.50 – 8.69	.43	16.50 – 16.69	.83	24.50 – 24.69	1.23
.70 – .89	.04	8.70 – 8.89	.44	16.70 – 16.89	.84	24.70 – 24.89	1.24
.90 – 1.09	.05	8.90 – 9.09	.45	16.90 – 17.09	.85	24.90 – 25.09	1.25
1.10 – 1.29	.06	9.10 – 9.29	.46	17.10 – 17.29	.86	25.10 – 25.29	1.26
1.30 – 1.49	.07	9.30 – 9.49	.47	17.30 – 17.49	.87	25.30 – 25.49	1.27
1.50 – 1.69	.08	9.50 – 9.69	.48	17.50 – 17.69	.88	25.50 – 25.69	1.28
1.70 – 1.89	.09	9.70 – 9.89	.49	17.70 – 17.89	.89	25.70 – 25.89	1.29
1.90 – 2.09	.10	9.90 – 10.09	.50	17.90 – 18.09	.90	25.90 – 26.09	1.30
2.10 – 2.29	.11	10.10 – 10.29	.51	18.10 – 18.29	.91	26.10 – 26.29	1.31
2.30 – 2.49	.12	10.30 – 10.49	.52	18.30 – 18.49	.92	26.30 – 26.49	1.32
2.50 – 2.69	.13	10.50 – 10.69	.53	18.50 – 18.69	.93	26.50 – 26.69	1.33
2.70 – 2.89	.14	10.70 – 10.89	.54	18.70 – 18.89	.94	26.70 – 26.89	1.34
2.90 – 3.09	.15	10.90 – 11.09	.55	18.90 – 19.09	.95	26.90 – 27.09	1.35
3.10 – 3.29	.16	11.10 – 11.29	.56	19.10 – 19.29	.96	27.10 – 27.29	1.36
3.30 – 3.49	.17	11.30 – 11.49	.57	19.30 – 19.49	.97	27.30 – 27.49	1.37
3.50 – 3.69	.18	11.50 – 11.69	.58	19.50 – 19.69	.98	27.50 – 27.69	1.38
3.70 – 3.89	.19	11.70 – 11.89	.59	19.70 – 19.89	.99	27.70 – 27.89	1.39
3.90 – 4.09	.20	11.90 – 12.09	.60	19.90 – 20.09	1.00	27.90 – 28.09	1.40
4.10 – 4.29	.21	12.10 – 12.29	.61	20.10 – 20.29	1.01	28.10 – 28.29	1.41
4.30 – 4.49	.22	12.30 – 12.49	.62	20.30 – 20.49	1.02	28.30 – 28.49	1.42
4.50 – 4.69	.23	12.50 – 12.69	.63	20.50 – 20.69	1.03	28.50 – 28.69	1.43
4.70 – 4.89	.24	12.70 – 12.89	.64	20.70 – 20.89	1.04	28.70 – 28.89	1.44
4.90 – 5.09	.25	12.90 – 13.09	.65	20.90 – 21.09	1.05	28.90 – 29.09	1.45
5.10 – 5.29	.26	13.10 – 13.29	.66	21.10 – 21.29	1.06	29.10 – 29.29	1.46
5.30 – 5.49	.27	13.30 – 13.49	.67	21.30 – 21.49	1.07	29.30 – 29.49	1.47
5.50 – 5.69	.28	13.50 – 13.69	.68	21.50 – 21.69	1.08	29.50 – 29.69	1.48
5.70 – 5.89	.29	13.70 – 13.89	.69	21.70 – 21.89	1.09	29.70 – 29.89	1.49
5.90 – 6.09	.30	13.90 – 14.09	.70	21.90 – 22.09	1.10	29.90 – 30.09	1.50
6.10 – 6.29	.31	14.10 – 14.29	.71	22.10 – 22.29	1.11	30.10 – 30.29	1.51
6.30 – 6.49	.32	14.30 – 14.49	.72	22.30 – 22.49	1.12	30.30 – 30.49	1.52
6.50 – 6.69	.33	14.50 – 14.69	.73	22.50 – 22.69	1.13	30.50 – 30.69	1.53
6.70 – 6.89	.34	14.70 – 14.89	.74	22.70 – 22.89	1.14	30.70 – 30.89	1.54
6.90 – 7.09	.35	14.90 – 15.09	.75	22.90 – 23.09	1.15	30.90 – 31.09	1.55
7.10 – 7.29	.36	15.10 – 15.29	.76	23.10 – 23.29	1.16	31.10 – 31.29	1.56
7.30 – 7.49	.37	15.30 – 15.49	.77	23.30 – 23.49	1.17	31.30 – 31.49	1.57
7.50 – 7.69	.38	15.50 – 15.69	.78	23.50 – 23.69	1.18	31.50 – 31.69	1.58
7.70 – 7.89	.39	15.70 – 15.89	.79	23.70 – 23.89	1.19	31.70 – 31.89	1.59
7.90 – 8.09	.40	15.90 – 16.09	.80	23.90 – 24.09	1.20	31.90 – 32.09	1.60

To calculate the sales tax on any amount over \$32.09, multiply the purchase price by .05 and round off to the nearest cent.

THE TAX MUST BE COMPUTED ON THE TOTAL SALE (WITH THE EXCEPTION OF INDIVIDUAL CLOTHING ITEMS OVER \$175) AND NOT ON PRICES OF INDIVIDUAL ITEMS INCLUDED IN THE SALE.

Department of Revenue

*Toll-free in Massachusetts: **800-392-6089***

*Online: **www.mass.gov/dor***